

William B. Crow, OSB No. 610180

bcrow@schwabe.com

SCHWABE, WILLIAMSON & WYATT

Suites 1600-1900 Pacwest Center

1211 S.W. Fifth Avenue

Portland, Oregon 97204-3795

Telephone: (503) 222-9981

Facsimile: (503) 796-2900

Attorneys for Defendant Payless ShoeSource, Inc.

William A. Rudy (Admitted *pro hac vice*)

wrudy@lathropgage.com

(Additional attorneys listed at signature)

LATHROP & GAGE L.C.

2345 Grand Blvd., Suite 2800

Kansas City, Missouri 64108-2612

Telephone: (816) 292-2000

Facsimile: (816) 292-2001

Of Counsel for Defendant Payless ShoeSource, Inc.

UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

**ADIDAS AMERICA, INC., and
ADIDAS-SALOMON AG,**

Plaintiffs,

v.

PAYLESS SHOESOURCE, INC.,

Defendant.

No. CV01-1655 KI (Lead Case)
Related Case CV03-1116 KI

**SUPPLEMENTAL DECLARATION OF
DAVID V. CLARK**

In Support of Motion for Judgment as a Matter
of Law On adidas' Liability Claims or, in the
Alternative, for New Trial

By Defendant Payless ShoeSource, Inc.

I, David V. Clark, declare and testify as follows:

1. I am a member with Lathrop & Gage LC, counsel for Defendant Payless ShoeSource, Inc. ("Payless") in this action.
2. I have personal knowledge of the facts in this Declaration and would willingly testify to the same if called upon to do so.
3. Attached as Exhibit A is a true and correct copy of a list of lot numbers and corresponding photos of all the Payless striped footwear that Payless was able to identify as of July 2006 as having been sold in the United States during the time that is relevant to this lawsuit. This list, which was bates-stamped PSS127365-127452, was produced to adidas on July 21, 2006. The lots which adidas did not choose to include in this lawsuit have been highlighted in yellow on Exhibit A.

I declare under penalty of perjury under the laws of the United States of America that the foregoing statements are true and correct.

Executed this 22nd day of May, 2008, at Kansas City, Missouri.



David V. Clark

CERTIFICATE OF SERVICE

I hereby certify that on May 22, 2008, I caused to be served a copy of the foregoing **SUPPLEMENTAL DECLARATION OF DAVID V. CLARK** on the following person(s) in the manner indicated below at the following address(es):

Stephen M. Feldman; sfeldman@perkinscoie.com
Thomas R. Johnson; trjohnson@perkinscoie.com
Perkins Coie LLP
1120 NW Couch Street, 10th Floor
Portland, OR 97209-4128

Counsel for plaintiffs

Jerre B. Swann; jswann@kilpatrickstockton.com
William H. Brewster; bbrewster@kilpatrickstockton.com
R. Charles Henn, Jr.; chenn@kilpatrickstockton.com
Kilpatrick Stockton LLP
1100 Peachtree Street, Suite 2800
Atlanta, GA 30309

Of counsel for plaintiffs

- ☐ by **CM/ECF**
- ☐ by **Electronic Mail**
- ☐ by **Facsimile Transmission**
- ☐ by **First Class Mail**
- ☐ by **Hand Delivery**
- ☐ by **Overnight Delivery**

/s/ John Shaeffer
An Attorney for Defendant